



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,761	06/30/2000	Klaus Binder	705649 US1 ML	2512

23911 7590 10/27/2003
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER

SODERQUIST, ARLEN

ART UNIT	PAPER NUMBER
----------	--------------

1743

DATE MAILED: 10/27/2003

20

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/608,761

Applicant(s)

BINDER ET AL.

Examiner

Arlen Soderquist

Art Unit

1743

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-14, 18 and 21.Claim(s) withdrawn from consideration: 15-17, 19, 20, 22 and 23.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

ARLEN SODERQUIST
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: of the reasons of record and the following comments. Examiner first directs applicant to claim 1. Relative to the preamble, examiner points out that an SCR catalyst has an ammonia storage state even when it is not in contact with an ammonia containing gas or an exhaust gas. To use the words of applicant, "it will have a empty storage state" (see page 4 line 2 of the request for reconsideration). Additionally, the ability of the catalyst material to change a physical property in response to the ammonia storing process is itself inherent to the catalyst material whether the material is or is not in contact with an exhaust gas or an ammonia containing gas. Thus the preamble does not require the material to be in use as a catalyst or provide structure that would place the material in an exhaust gas system. Another relevant consideration is that the Schmelz reference is clearly directed to using the teachings to measure the ammonia storage state in an exhaust system as evidenced by the discussion in columns 6-8 with respect to figures 4-5. Finally the fact that the instant invention is taught by the instant specification as an improvement of the applied reference, does not insure that the claims are narrow enough to exclude the teachings of the reference. The claims are interpreted and examined based on the scope of the language used rather than on the specific embodiments described in the specification. In other words, a patentable invention might be described in an application, but unless the claims are narrow enough to only cover that which is patentable, the claims are required to be rejected by art which either anticipates or shows the obviousness of the differences between what is being claimed and the prior art.